

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JEFFREY TURNER,

Plaintiff,

v.

Case No. 2:16-CV-12142

DR. GARLAPATI, et. al.,

Defendants,

OPINION AND ORDER DISMISSING COMPLAINT AS DUPLICATIVE

Plaintiff Jeffrey Turner, a state inmate currently incarcerated at the Handlon Correctional Facility in Ionia, Michigan, has filed a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983. After careful consideration, the court summarily dismisses the complaint without prejudice for being duplicative of a previously filed civil rights complaint in Case # 2:16-CV-11945.

In his current complaint, Plaintiff alleges that he was sexually harassed by Dr. Garlapati, who was treating him for mental health issues when Plaintiff was incarcerated at the Macomb Correctional Facility. Plaintiff claims that when he rebuffed Dr. Garlapati's unwanted advances, she forced him against his will to take injections for Haldal, which has caused him various problems. Plaintiff claims that as a result of these injections, he now suffers from blurred vision and has problems urinating. Plaintiff claims that the other defendants failed to respond to his complaints about Dr. Garlapati.

Plaintiff previously filed an identical lawsuit against these defendants and raised the same claims, which remains pending before Judge Arthur J. Tarnow. *See Turner v.*

Garlapati, et. al., U.S.D.C. No. 2:16-CV-11945 (E.D. Mich.). This court obtained this information from the docket sheet for the United States District Court for the Eastern District of Michigan. Public records and government documents, including those available from reliable sources on the Internet, are subject to judicial notice. See *United States ex. rel. Dingle v. BioPort Corp.*, 270 F. Supp. 2d 968, 972 (W.D. Mich. 2003). A district court is permitted to take judicial notice of its own files and records in a prisoner civil rights case. See e.g. *Mangiafico v. Blumenthal*, 358 F. Supp. 2d 6, 9-10 (D. Conn. 2005) .

As a general rule, when duplicative lawsuits are pending in separate federal courts, “the entire action should be decided by the court in which an action was first filed.” *Smith v. S.E.C.*, 129 F. 3d 356, 361 (6th Cir.1997). A duplicative suit is one in which the issues “have such an identity that a determination in one action leaves little or nothing to be determined in the other.” *Id.* The Sixth Circuit has held that a district court “has broad discretion in determining whether to dismiss litigation or abstain in order to avoid duplicative proceedings.” *In re Camall Co.*, 16 F. App’x 403, 408 (6th Cir. 2001)(citing *In Re White Motor Credit*, 761 F.2d 270, 274–75 (6th Cir. 1985)).

Petitioner’s current civil rights complaint will be dismissed because it is duplicative of his civil rights case which remains pending before Judge Tarnow in Case # 2:16-CV-11945, because both cases seek the same relief against the same parties.

Moreover, the court notes that Plaintiff may not have wished to file a new lawsuit in this case but may have simply been attempting to cure a deficiency order in Case # 2:16-CV-11945 by submitting the requisite number of copies of the complaint for service upon the defendants. Thus, the Clerk of the Court is directed to forward a copy of this

order to Judge Tarnow, for him to determine whether to accept the complaint in this case as curing the deficiency in his case.

IT IS HEREBY ORDERED that Plaintiff's complaint is DISMISSED WITHOUT PREJUDICE for being duplicative of the complaint filed in case # 2:16-CV-11945.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to FORWARD a copy of this order to the Honorable Arthur J. Tarnow.

Finally, because Plaintiff appears to be attempting to cure the deficiency order in his pending civil rights case, IT IS ORDERED that Plaintiff is not required to pay any filing fee in this case. See *e.g. Ahmad v. Grant*, No. 10-12644, 2010 WL 2756499, at *2 (E.D. Mich. July 12, 2010).

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: June 22, 2016

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, June 22, 2016, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522